

**N.D.A.G. Letter to Renner (Aug. 19, 1985)**

August 19, 1985

Mr. Jerry Renner  
Kidder County States Attorney  
P.O. Box 229  
Steele, ND 58482

Dear Mr. Renner:

Thank you for your letter of July 16, 1985, describing a situation where a city park board wishes to expend public monies to assist a nonprofit corporation in that corporation's operation of a swimming pool and the provision of swimming lessons by that corporation to residents of the city.

Your attention is directed to N.D. Const. Art. X., §18, which states, in part, as follows:

. . . but neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association, or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation.

It is this constitutional section which appears to cause problems for the scenario described in your letter. As the park board is a political subdivision, it does fall within the prohibition contained in this section as to the expenditure of funds to support a corporation.

It is possible, however, that some type of an arrangement (such as a joint venture) may be made between the corporation and the park board as to the operation of the swimming pool so as to avoid this constitutional prohibition. You may wish to review again the powers of the park board as found in N.D.C.C. §40-49-12. If an arrangement may be made whereby the city park board does not provide funds to the corporation itself for the swimming pool or the swimming lessons, this constitutional prohibition may not apply.

Sincerely,

Nicholas J. Spaeth